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## TELEFAX

Date: June 8, 2005

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sheet)

To: US PTO

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From: Patrea Pabst

Telephone: 404-879-2151

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Our Docket No. MIT 7501

Client/Matter No. 701350/41

Your Docket No.

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## MESSAGE:

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Campbell Rogers, Elazer R. Edelman, and Daniel I. Simon

Serial No.: 08/823,999

Art Unit: 1644

Filed: March 25, 1997

Examiner: Phillip Gambel

For: "MODULATION OF VASCULAR HEALING BY INHIBITION OF  
LEUKOCYTE ADHESION AND FUNCTION"PTO/SB/21 Transmittal Form; PTO/SB/21 Fee Transmittal, Reply to  
Supplemental Examiner's Answer to Reply Brief to Examiner's Answer

{45057671.1}

PTO/SB/17 (12-04)

Approved for use through 07/31/2008. OMB 0851-0032

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4618).

**FEE TRANSMITTAL**  
**For FY 2005**☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ ) 0.00

**Complete if Known**

Application Number	08/823,999
Filing Date	March 25, 1997
First Named Inventor	Campbell Rogers
Examiner Name	Phillip Gambel
Art Unit	1644
Attorney Docket No.	MIT 7501

**METHOD OF PAYMENT** (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 50-3129 Deposit Account Name: Pabst Patent Group LLP

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

**Total Claims** - 20 or HP = 0 x      =      **Fee (\$)** **Fee Paid (\$)**

HP = highest number of total claims paid for, if greater than 20

**Indep. Claims** - 3 or HP = 0 x      =      **Fee (\$)** **Fee Paid (\$)**

HP = highest number of independent claims paid for, if greater than 3

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

**Total Sheets** - 100 =      / 50 =      (round up to a whole number) x      =      **Fee (\$)** **Fee Paid (\$)**

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other: \_\_\_\_\_

**SUBMITTED BY**

Signature		Registration No. (Attorney/Agent) <u>31,284</u>	Telephone <u>(404) 879-2151</u>
Name (Print/Type)	<u>Patricia L. Pabst</u>		Date <u>June 8, 2005</u>

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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MIT 7501 701350/41


PTO/SB/21 (09-04)

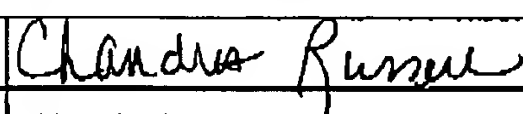
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	08/823,999
	Filing Date	MIT 7501
	First Named Inventor	Campbell Rogers
	Art Unit	1644
	Examiner Name	Phillip Gambel
Total Number of Pages in This Submission	Attorney Docket Number	MIT 7501

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input checked="" type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below): <i>Reply to Supplemental Examiner Examiner</i>
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Pabst Patent Group LLP		
Signature			
Printed name	Patrea L. Pabst		
Date	June 8, 2005	Reg. No.	31,284

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Typed or printed name	Chandra Russell	Date June 8, 2005

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JUN 08 2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appellants: Campbell Rogers, Elazer R. Edelman, and Daniel I. Simon

Serial No.: 08/823,999

Art Unit: 1644

Filed: March 25, 1997

Examiner: Phillip Gambel

For: *MODULATION OF VASCULAR HEALING BY INHIBITION OF LEUKOCYTE  
ADHESION AND FUNCTION***PREVIOUS APPEAL NO: 2003-0074**Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**REPLY TO SUPPLEMENTAL EXAMINER'S ANSWER  
TO REPLY BRIEF TO EXAMINER'S ANSWER**

Sir:

This is a reply to the Supplemental Examiner's Answer mailed June 6, 2005 in the above identified patent application. A request for Oral Hearing was previously submitted along with the appropriate fee for a small entity. It is believed that no additional fee is required with this submission. However, should an additional fee be required, the Commissioner is hereby authorized to charge the fee to Deposit Account No. 50-3129.

It is earnestly requested that this case be forwarded immediately to the Board of Appeals.

U.S.S.N.: 08/823,999

Filed: March 25, 1997

**REPLY TO SUPPLEMENTAL EXAMINER'S ANSWER  
TO REPLY BRIEF TO EXAMINER'S ANSWER**

**Information Disclosure Statement**

Pursuant to the Duty of Disclosure under 37 C.F.R. 1.132, appellants are bringing to the attention of the U.S. Patent Office, U.S. Patent No. 6,663,863 entitled "Method of inhibiting stenosis and restenosis" issued December 16, 2003 to Horvath, et al. Although this patent is not prior art to the present application, it is relevant to the rejections made by the examiner, being drawn to the same subject matter as being claimed. Appellants and the undersigned hereby certify that they have just become aware of this patent within the last week and therefore were unable to cite it to the examiner prior to this time. The Patent Office is authorized to charge any fee, but it is believed one should not be necessary.

**Remarks**

**(6) Issues on Appeal**

Appellants agree with the Examiner's revision of the status of the claims and which claims are rejected and on what grounds, reiterated on page 2.

**(8) Arguments**

A review of pages 3-34 does not identify any new issues or arguments but appears to be repetitive of the arguments made in the Examiner's Answer. The only items that are new are the references attached to the Supplemental Examiner's Answer, Kuby, "Immunology", Bost, et al., Immunol. Invest 17:577-586 (1988); and Bendayan, J. Histochem. Cytochem. 43:881-886

U.S.S.N.: 08/823,999

Filed: March 25, 1997

**REPLY TO SUPPLEMENTAL EXAMINER'S ANSWER  
TO REPLY BRIEF TO EXAMINER'S ANSWER**

(1995), which apparently were included in the event the Board was not familiar with the art recognized definitions of binding of antibodies to epitopes.

The arguments made by the examiner in the Supplemental Examiner's Answer have been made before (as the examiner notes repeatedly), and appellants have addressed these issues both during the first appeal, and again during this appeal in their Appeal Brief and Reply to Examiner's Answer. It is difficult to know how to respond to the examiner's repeated comments about what is curious and the definitions and inconsistencies he raises. Appellants have repeatedly, using the standards and definitions known to those skilled in the art, attempted to explain what the differences are between myocardial infarction (an acute coronary event commonly referred to as a heart attack which can be caused by a blockage, or stenosis, in an artery) and restenosis, a progressive narrowing of an artery following injury to the endothelial lining of the artery, which occurs over a prolonged period of time, and have amended their claims. Appellants have also explained that the prior art differs from what is claimed based on differences in reagents, methods of treatment, and patients to be treated, due to the differences in the indication to be treated. These differences are well known to those skilled in the art, if not to the examiner. Appellants have **not** relied upon the prior art to show that what they are claiming is anticipated, as alleged at page 21. The prior art method does **not** inherently anticipate the claimed method. As the examiner correctly notes at the bottom of page 21, the patients are different, the dosage and schedule are different and the criteria are different *because the disorder*

U.S.S.N.: 08/823,999

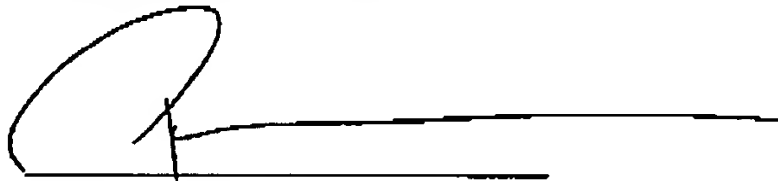
Filed: March 25, 1997

**REPLY TO SUPPLEMENTAL EXAMINER'S ANSWER  
TO REPLY BRIEF TO EXAMINER'S ANSWER**

*to be treated is different as well as the reagent to be used to treat the patients.* Appellants arguments are not inconsistent with respect to antibodies that bind Mac-1. The claim language speaks for itself in this regard. Appellants believe the previously submitted responses and evidence with respect to the rejections under 35 U.S.C. 112 are adequate and fully responsive and are therefore not reiterating these again, but with the understanding that they dispute each and every allegation and rejection and negative innuendos made by the examiner.

Appellant submits that claims 1-12 are definite, comply with the written description requirement, are enabled, novel and non-obvious.

Respectfully submitted,



Patrea L. Pabst  
Reg. No. 31,284

Date: June 8, 2005

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